



## MINUTES

**CITY OF SCOTTSDALE POLICE LOCAL BOARD OF THE  
PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (PSPRS)  
REGULAR MEETING  
10:00 a.m., Thursday, March 4, 2010  
Human Resources Verde Conference Room  
7575 E. Main Street  
Scottsdale, Arizona 85251**

**PRESENT:** Jack Cross, Chairman/Mayoral Designee  
Jeffrey Burg, Citizen Member (arrived at 10:23 a.m./left at 11:30 a.m.)  
James Butera, Elected Member (arrived at 10:25 a.m.)  
La Verne Parker Diggs, Citizen Member/Merit Head  
Jeffrey Walther, Elected Member

**STAFF:** Ken Nemec  
Chanda Washington

**OTHERS:** Michael Anthony, Esq.  
Lieutenant Craig E. Chrzanowski (arrived at 10:55 a.m.)  
Officer Gerald E. Rollings

### **Call to order:**

Chairman Cross called the meeting to order at 10:06 a.m. He stated that the first order of business was the acknowledgement of Board Member Butera's expected late arrival as well as Board Member Burg's excused absence.

### **Roll call:**

A formal roll call confirmed the members present as stated above.

#### **1. Review and Approval of Meeting Minutes—February 18, 2010.**

**BOARD MEMBER WALTHER MOVED TO APPROVE THE REGULAR MEETING MINUTES OF THE FEBRUARY 18, 2010 PSPRS POLICE LOCAL BOARD MEETING. BOARD MEMBER PARKER DIGGS SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBERS BURG AND BUTERA ARRIVED LATER.**

**6. Discussion and Vote on the DROP (Deferred Retirement Option Plan)  
Application of Assistant Police Chief John J. Cocca**

Chairman Cross recommended considering agenda items 6 and 7 while the Board awaited the arrival of Board Member Butera.

Mr. Nemec reported that Assistant Police Chief John Cocca entered into the DROP on March 1, 2010 having a last possible DROP credited date of February 28, 2015. He stated that the Applicant's paperwork is in order and he would be receiving a monthly retirement benefit in the amount of \$7,419.10.

Chairman Cross stated that Assistant Police Chief Cocca would serve with the Scottsdale Police Department for at least another five years.

In response to Board Member Walther's inquiry regarding why the effective date was February 12, 2010 even though the Applicant entered the DROP on March 1, 2010, Chairman Cross explained that the Applicant chose a date that would ensure he put in his full 25 years of service.

**BOARD MEMBER PARKER DIGGS MOVED TO APPROVE THE DEFERRED RETIREMENT OPTION PLAN APPLICATION OF ASSISTANT POLICE CHIEF JOHN J. COCCA, EFFECTIVE FEBRUARY 12, 2010, SUBJECT TO FINAL PAYROLL CALCULATIONS AND QUALIFIED DOMESTIC RELATIONS ORDERS. BOARD MEMBER WALTHUR SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBERS BURG AND BUTERA ARRIVED LATER.**

**7. Discussion and Vote on the DROP (Deferred Retirement Option Plan)  
Application of Police Sergeant Thomas L. Macari, Jr.**

Mr. Nemec reported that Police Sergeant Thomas Macari, Jr. entered into the DROP on March 1, 2010 having a last possible DROP credited date of February 28, 2015. He stated that the Applicant's paperwork is in order and he would be receiving a monthly retirement benefit in the amount of \$6,098.16

Chairman Cross stated that Police Sergeant Macari, Jr. would also serve another five years with the Scottsdale Police Department.

He expressed the Board's appreciation of both police officers' extraordinary years of service to the citizens of Scottsdale.

Chairman Cross suggested that the Board take a five-minute break in order to wait for the arrival of Board Member Butera before continuing on to agenda item 2.

**BOARD MEMBER WALTHUR MOVED TO APPROVE THE DEFERRED RETIREMENT OPTION PLAN APPLICATION OF POLICE SERGEANT THOMAS L. MACARI, JR., EFFECTIVE FEBRUARY 11, 2010, SUBJECT TO FINAL PAYROLL CALCULATIONS AND QUALIFIED DOMESTIC RELATIONS ORDERS. BOARD MEMBER PARKER DIGGS SECONDED THE MOTION, WHICH**

**CARRIED BY A VOTE OF THREE (3) TO ZERO (0). BOARD MEMBERS BURG AND BUTERA ARRIVED LATER.**

**2. Consideration of the A.R.S. Sec. 38-844 Retirement Application of Police Officer Gerald E. Rollings**

Chairman Cross invited the Board to continue with the meeting since Board Member Butera informed staff that he was on his way.

Ms. Washington reported that Officer Rollings had applied for accidental disability retirement for his knee and back injuries incurred while on the job. She recalled that the Board sent the Applicant for an IME through Columbia Medical wherein he saw two separate physicians (one for each injury) who combined their findings into one report.

Ms. Washington explained that the Board's notebooks included the application as well as the IME results for each condition. Staff supplied both doctors with the Applicant's job description, his workers' compensation file, and all additional documentation provided by Officer Rollings.

Chairman Cross expressed his appreciation of the two doctors' clear and concise IME report. Board Member Walther opined that the report was very thorough and noted that it was the best IME report he has seen to date.

Chairman Cross directed staff to retain the names of both doctors for future reference when requesting an IME through Columbia Medical.

Chairman Cross stated that the first IME question was as follows:

"Does Mr. Rollings have a physical or mental condition which totally prevents him from performing a reasonable range of duties within the employee's job description?"

Chairman Cross summarized that both doctors responded as follows:

"It is the opinion of the examiners that Mr. Rollings has a condition involving his left knee and lumbar spine with residual radiculopathy which totally prevents him from performing a reasonable range of duties within the employee's job description."

Chairman Cross stated that the second IME question was as follows:

"Does Mr. Rollings have a physical or mental condition which permanently prevents him from performing a reasonable range of duties within the employee's job classification?"

Chairman Cross explained that the doctors' responses were as follows:

"It is the opinion of the examiners that Mr. Rollings has a condition involving his left knee and lumbar spine which singularly or in concert would prevent

him permanently from performing a reasonable range of duties within the employee's job description."

Chairman Cross pointed out that it was interesting that the doctors indicate that either injury could prevent the Applicant from performing his job duties.

Chairman Cross stated that the third IME question was as follows:

"Do you feel that Mr. Rollings' disabling condition or injury was incurred in the performance of Mr. Rollings' duty as a police officer?"

Chairman Cross summarized that both doctors responded as follows:

"Based on our review of the medical records and the oral history taken of Mr. Rollings today, it is our opinion that he sustained injury of his left knee and lumbar spine, which are now disabling, as a consequence of the performance of his duties as a police officer."

In response to Chairman Cross' request for personal experiences regarding whether anyone had heard of the Applicant's injuries before, Board Member Walther explained that he has worked with Police Officer Rollings in various capacities over the past 16 years and noted that he was very familiar with the injuries incurred during the performance of his duties.

He elaborated that he had reviewed various documentation regarding the numerous surgeries the Applicant underwent during his employment with the Scottsdale Police Department.

Board Member Walther commented on the fact that Police Officer Rollings had shown much dedication during his past 21 years of service with the Special Assignments Unit and Swat Team.

Chairman Cross stated that the fourth IME question was as follows:

"Does Mr. Rollings' disability result from a physical condition or injury that existed or occurred before the Claimant's date of membership in the PSPRS?"

Chairman Cross explained that both doctors responded as follows:

"We have reviewed the medical records in their entirety and we have interrogated the applicant and we find no indication that he had a condition of his left knee or lumbar spine which pre-dated or existed before the Claimant's date of membership in the PSPRS."

Chairman Cross noted that Board Member Burg arrived at 10:23 a.m. Board Member Burg said he was able to leave his prior engagement in order to attend today's meeting.

Ms. Washington reported that staff had the paperwork ready for the accidental disability application, noting that the Applicant would receive the same pension amount indicated when he entered into the DROP.

Chairman Cross explained that if someone becomes disabled while in the DROP the statute was written in a manner that would not hinder their ability to obtain disability retirement benefits. Board Member Butera arrived at 10:25 a.m.

In response to Board Member Walther's inquiry regarding whether the 1996 injury was the one for which the Applicant received the Police Cross, Police Officer Rollings said it was. He pointed out that the Police Cross is the Police Department's second highest award presented to a police officer for sustaining a serious injury during the performance of their job duties.

Chairman Cross invited Police Officer Rollings to add his comments to the discussion before the Board votes on his accidental disability retirement application.

Police Officer Rollings opined that he had a great career and pointed out that he would have continued in the DROP for another five years had he not incurred both injuries while on the job.

Chairman Cross expressed the Board's appreciation of Police Officer Rollings' many years of service to the citizens of Scottsdale.

**BOARD MEMBER WALTHER MOVED TO FIND THAT THE APPLICANT HAS A PHYSICAL OR MENTAL CONDITION WHICH TOTALLY AND PERMANENTLY PREVENTS HIM FROM PERFORMING A REASONABLE RANGE OF DUTIES WITHIN THE POLICE OFFICER CLASSIFICATION. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FIVE (5) TO ZERO (0).**

**BOARD MEMBER WALTHER MOVED TO FIND THAT THE APPLICANT'S DISABLING CONDITION WAS INCURRED IN THE PERFORMANCE OF HIS DUTIES AS A POLICE OFFICER. BOARD MEMBER PARKER DIGGS SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FIVE (5) TO ZERO (0).**

**BOARD MEMBER WALTHER MOVED TO FIND THAT THE APPLICANT'S DISABILITY DID NOT RESULT FROM A PHYSICAL OR MENTAL CONDITION OR INJURY THAT EXISTED OR OCCURRED PRIOR TO THE APPLICANT'S DATE OF MEMBERSHIP IN PSPRS, WHICH IS FEBRUARY 1, 1985. BOARD MEMBER BURG SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FIVE (5) TO ZERO (0).**

**BOARD MEMBER WALTHER MOVED TO APPROVE THE ACCIDENTAL DISABILITY RETIREMENT PENSION OF POLICE OFFICER GERALD E. ROLLINGS, SUBJECT TO FINAL PAYROLL CALCULATIONS AND QUALIFIED DOMESTIC RELATIONS ORDERS. BOARD MEMBER BUTERA SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FIVE (5) TO ZERO (0).**

**CLOSED PUBLIC HEARING**

3. **Motion to Recess into Executive Session for Discussion of the A.R.S. Sec. 38-844 Retirement Application of Police Officer Gerald E. Rollings**

Chairman Cross deemed it unnecessary to recess into executive session.

**RECONVENE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM MEETING  
FOLLOWING EXECUTIVE SESSION**

4. **Discussion and Vote on the Accidental Disability Retirement Application of Police Lieutenant Craig E. Chrzanowski**

Mr. Nemec remarked that Police Lieutenant Chrzanowski was supposed to be attending today's meeting.

Chairman Cross reported that the Board Members' notebooks included one additional piece of documentation, the Tempe Public Safety Retirement Board meeting minutes regarding an applicant with a similar on-duty eye injury who was sent for an IME.

In response to Chairman Cross' comment that he did not know the outcome of that IME, Mr. Nemec stated this case is ongoing. Board Member Walther recalled that the Board denied the applicant, who later filed a lawsuit.

Mr. Nemec explained that staff had sent a letter one week ago to the Applicant's physician requesting information regarding his disability and noted that to date no response has been received from the doctor. Staff had followed up the morning of the meeting to no avail.

Chairman Cross recommended that the Board recess into executive session in order to discuss the retirement application of Police Lieutenant Craig E. Chrzanowski.

**CLOSED PUBLIC HEARING**

5. **Motion to Recess into Executive Session for Discussion of the A.R.S. Sec. 38-844 Retirement Application of Police Lieutenant Craig E. Chrzanowski**

**BOARD MEMBER BURG MOVED TO RECESS INTO EXECUTIVE SESSION TO DISCUSS THE RETIREMENT APPLICATION OF POLICE LIEUTENANT CRAIG E. CHRZANOWSKI. BOARD MEMBER WALTHER SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FIVE (5) TO ZERO (0).**

**RECONVENE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM MEETING  
FOLLOWING EXECUTIVE SESSION**

**4. Discussion and Vote on the Accidental Disability Retirement Application of Police Lieutenant Craig E. Chrzanowski (Continued)**

Chairman Cross invited the Board to discuss agenda item 4 and announced that Police Lieutenant Chrzanowski arrived just in time for the discussion.

In response to Board Member Parker Diggs' inquiry regarding whether Police Lieutenant Chrzanowski was still on light duty, Mr. Nemec reported that the Applicant retired last week and is no longer working for the Scottsdale Police Department.

Board Member Walther suggested reviewing the fifth paragraph of page 8 of the February 18, 2010 minutes wherein the Board had a lengthy discussion regarding the interpretation of the accidental disability statute.

In response to Board Member Walther's inquiry regarding whether the Applicant had been given a copy of Mr. Anthony's legal opinion on the statute, Chairman Cross invited Mr. Anthony to communicate his legal opinion on the record.

Mr. Anthony explained that it was his opinion that A.R.S. Section 38-842 provides a definition that an accidental disability was to be measured by the reasonable range of duties in an employee's job classification and pointed out that the statute does not provide a real or hypothetical statewide reasonable range of duties. Certification provided by other agencies or organizations is not really a certification classification that is part of the Public Safety Personnel Retirement System.

Mr. Anthony said that the Board should be considering whether the Applicant could perform a reasonable range of duties within the Scottsdale Police Department job classification.

**Police Lieutenant Chrzanowski's Comments:**

Police Lieutenant Chrzanowski agreed with counsel's opinion regarding A.R.S. Section 38-842 and recalled that before he entered the DROP in 2005 his intention was to work as an MCAL investigator after completing his five years in the DROP program. Everything changed after his injury occurred in July of 2008.

Police Lieutenant Chrzanowski summarized that his first action was to find out whether he could maintain his current classification and continue working within the law enforcement field. He pointed out that because of his eye injury he could no longer possess or maintain Arizona POST certification as required by his job classification.

Police Lieutenant Chrzanowski recalled that the Public Safety Personnel Retirement System informed him that unless he could prove the injury was job-related he would only be given a normal disability and since he had passed 20 years he would not receive any compensation.

The loss of the disability retirement would cost him approximately 1.5 years in the DROP, which calculates to \$90,000 plus interest on the DROP account, in addition to

1.5 years of salary, which equals \$180,000, resulting in an approximate loss of \$300,000.

Police Lieutenant Chrzanowski opined that he would be placed on light duty if he had requested a medical disability at the time of injury and pointed out that he was placed on transitional duty once he filed his application.

He noted that the Arizona statute allows one year to file for an accidental disability in advance of filing for a normal retirement.

Police Lieutenant Chrzanowski summarized that staying on the job posed several physical challenges because of the loss of most of the peripheral vision and depth perception in his right eye as well as his ability to see in the dark. He noted that the most difficult challenge was to the ability to shoot at a distance of 50 yards or more and recalled that he qualified last year with a score of 210 on his third attempt.

Police Lieutenant Chrzanowski stated that the loss of peripheral and night vision affected his ability to pass emergency driving in urban areas. He elaborated that his injury also affected his ability to walk down stairs, jump fences, subdue perpetrators, and work on computers.

Police Lieutenant Chrzanowski reported that as a Crimes against Persons Section Commander he commands the Violent Crimes Unit, Sex Crimes Unit, Domestic Violence Unit, and Gang Investigations unit.

He said Dr. Johnstone called him earlier today stating that she was upset that the City contacted her a few hours ago requesting that she supply a report for today's meeting and that she would need more time to prepare such a report.

In closing, Police Lieutenant Chrzanowski argued that his injury was a result of chronic stress incurred during 30 years of police work, noting that he was permanently disabled.

He stated that he could no longer meet the following requirements of his job classification: to possess and maintain a POST certificate, visual dexterity to use a firearm, to operate a motor vehicle while using computer equipment and two-way radio, maintaining a constant visual review of my surroundings, and the ability to subdue resisting offenders.

Police Lieutenant Chrzanowski reported that he currently holds a POST certification and once that was challenged, he would fail the POST requirements.

Mr. Nemec summarized that staff requested a report from Dr. Johnstone by correspondence in advance of today's telephone request which did not place any time constraints on the doctor. He pointed out that it was unusual for the doctor not to provide a report at the beginning of this application process.

Police Lieutenant Chrzanowski stated that there were only two specialists in the state he could see for his injury and noted that he was not in control of his doctor's actions.

**Board Discussion:**

Chairman Cross invited the Board to discuss whether to send Police Lieutenant Chrzanowski for independent medical evaluation.

In response to Board Member Burg's inquiry regarding how the Board should interpret the fact that the Applicant currently holds a POST certification, Mr. Anthony responded that the Board must determine whether there was a termination of employment by reason of accidental disability as of the date of retirement.

He suggested discussing whether the Applicant meets the qualifications of his job classification now, rather than whether his POST certification would be challenged in the future.

Board Member Burg confirmed that the Board needs to review the application based on what would have occurred on the date of termination, which is February 25, 2010.

Mr. Anthony stated that the statute is contradictory, since an applicant must terminate by a DROP date selected in advance, while the statutory definition of "accidental disability" says one must terminate by reason of the accidental disability.

He opined that as a result of the DROP statute allowing applicants to apply for an accidental disability within one year of their DROP termination there was no way to have all of the steps fit together when applied literally.

Mr. Anthony clarified that the Board must decide whether the Applicant meets the accidental disability definition on the date of termination, ignoring that the termination was by reason of DROP. He pointed out that the Applicant must provide a prima facie showing of qualification and quantitative termination for an accidental disability.

Mr. Anthony explained that if the applicant has a prima facie showing, then the Board should schedule an IME. If they do not, the Board could deny the application, which could be resubmitted by the Applicant at a later date if additional evidence was produced. Alternatively, the Applicant could request a rehearing.

Chairman Cross suggested that the Board determine whether to send the Applicant for an IME rather than approve or disapprove his accidental disability retirement application during today's meeting.

Board Member Walther reported that he left the February 18, 2010 meeting with two statute-related questions, and opined that Mr. Anthony's interpretation of the statute coincides with the way the Board applied it to this application.

He was hoping to see a medical report today from Dr. Johnstone supporting that Police Lieutenant Chrzanowski's injury was work-related.

Board Members noted that selecting an IME doctor will be difficult because the Applicant has already seen the only two specialists available in Arizona.

Board Member Walther recalled that during the Board's statute interpretation discussion, the Applicant stated that if legal counsel concurred with the Board's interpretation, he probably would not have applied for a medical disability.

Police Lieutenant Chrzanowski stated that he did make that comment. After doing much research after last month's meeting, he confirmed that he could not meet his job classification requirements. He reminded the Board that as indicated in both his memos Dr. Johnstone had agreed to provide a report upon the City's request.

Mr. Anthony explained that the Board could defer their decision until the Applicant's doctor provides additional information as long as he was willing to waive the 90-day requirement.

In discussion, it was noted that the Board's next two meetings are scheduled for March 18, 2010 and April 15, 2010. Board Member Walther reported that he would not be able to attend the March 18, 2010 meeting and Police Lieutenant Chrzanowski stated that he would be out of the country that day.

Police Lieutenant Chrzanowski indicated that he was willing to waive the 90-day requirement. Board Member Burg requested that the Applicant ask his commanding officer to provide the Board with a statement regarding whether he was unable to accomplish any of the job classification duties as of February 25, 2010.

In response to Board Member Butera's inquiry regarding whether the Applicant filed a claim of injury before filing his accidental disability application, Police Lieutenant Chrzanowski responded no.

In response to Board Member Parker Diggs' inquiry regarding when the injury occurred, Police Lieutenant Chrzanowski stated that it occurred in July 2008. After the incident in December, he stayed away from enforcement and took three weeks of vacation to ponder the fact that he could no longer do his job.

In response to Board Member Burg's inquiry regarding whether the Applicant took vacation immediately after December 25 or whether he notified his supervisor after that date that he could no longer perform his job duties, Police Lieutenant Chrzanowski stated that he did not know the exact date. He pointed out that a couple of days after he returned from vacation, he notified his supervisor that he was going to apply for disability.

Police Lieutenant Chrzanowski explained that the memo he gave staff should include the dates everything occurred. Ms. Washington stated that the first memo was dated January 28, 2010. Chairman Cross noted that the accidental disability application was completed on January 20, 2010.

In response to Board Member Burg's inquiry regarding when the Applicant returned from vacation, Police Lieutenant Chrzanowski explained that he was in Chicago for Christmas and then went to Mexico for New Year's. He stated that he must have notified his supervisor within the two-week period following his vacation. Ms. Washington confirmed that the Applicant was not placed on light duty until after the January 21, 2010 meeting.

In response to Board Member Walther's inquiry regarding the date the application was turned in, Ms. Washington stated that the date she met with the applicant was recorded on her calendar.

In response to Board Member Walther's inquiry regarding whether the Applicant has an opportunity to provide additional evidence should the Board choose not to send him for an IME, Mr. Anthony explained that the Applicant could provide additional evidence if he decides to either resubmit his application or request a rehearing.

He stated that the Applicant could also waive the 90-day restriction, allowing the Board to defer their decision until Police Lieutenant Chrzanowski can provide additional medical evidence.

It was the consensus of the Board to disapprove the issuance of an IME based on the current information received by the Board. Chairman Cross suggested that the Applicant request a rehearing after he has obtained Dr. Johnstone's report within the 60-day time limit.

Police Lieutenant Chrzanowski opined that the main issue was the lack of medical opinion and stated that he planned to request a rehearing. Chairman Cross pointed out that if the Applicant requests a rehearing right away, they would not be required to start the process over and the Board might be able to continue the process in April 2010.

Mr. Anthony explained that A.R.S. Section 38-847 (g) and (h) basically provide that within 60 days of today's date the Applicant can make an application for rehearing. Police Lieutenant Chrzanowski agreed to obtain Dr. Johnstone's report as soon as possible.

Mr. Anthony explained that the Board was not limited to local doctors for IMEs and pointed out that the statute authorizes the Board to select an IME out of state if it is necessary to locate a specialist in a highly specialized area for the IME.

In response to Chairman Cross' inquiry regarding whether the statute prohibits the Board from using a doctor who has treated the Applicant in the past, Mr. Anthony conformed that the Board was prohibited from using the employer's or workers' compensation physicians.

In response to Mr. Nemec's inquiry regarding whether the Board was obligated to conduct the rehearing within 90 days should the applicant request a rehearing, Mr. Anthony suggested scheduling the rehearing for next month since Police Lieutenant Chrzanowski has agreed to waive the 90-day requirement.

**BOARD MEMBER WALTHER MOVED TO DISAPPROVE THE ISSUANCE OF AN INDEPENDENT MEDICAL EXAMINATION THROUGH COLUMBIA MEDICAL CONSULTANTS, INC. FOR THE APPOINTMENT OF A MEDICAL SPECIALIST TO SERVE AS THE MEDICAL BOARD FOR THE APPLICATION OF POLICE LIEUTENANT CRAIG E. CHRZANOWSKI, BASED ON THE CURRENT INFORMATION THE BOARD HAS RECEIVED. BOARD MEMBER PARKER DIGGS SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FOUR (4) TO ZERO (0). CHAIRMAN CROSS ABSTAINED FROM VOTING.**

**8. Board Suggestions for Upcoming Agenda Items.**

Chairman Cross confirmed that there were no suggestions for upcoming agenda items.

**ADJOURNMENT:**

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 11:39 a.m.

Respectfully Submitted by:

REVIEWED BY:

Ken Nemec  
PSPRS Police Local Board Secretary

Jack Cross  
PSPRS Chairman/Mayoral Designee